



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/169410

PRELIMINARY RECITALS

Pursuant to a petition filed October 14, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Public Assistance Collection Unit ["PACU"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 5, 2015.

The issue for determination is whether the following Claim may be established against petitioner for an MA overpayment: Claim Number [REDACTED]; August 1, 2014 to July 31, 2015; \$2,323.99.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], Trafficking Enforcement PARIS Unit
Public Assistance Collection Unit
PO Box 8938
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is currently a resident of Tennessee but previously was a resident of Wisconsin.

2. The following Claim was established against petitioner for an overpayment of MA: Claim Number [REDACTED]; August 1, 2014 to July 31, 2015; \$2,323.99. Exhibits #5.
3. Petitioner was receiving MA in Wisconsin and moved to Tennessee in June 2014; she failed to report her move to Tennessee to MA in Wisconsin and continued to receive Wisconsin MA while she lived in Tennessee. Exhibits #1, #2, #3 & #4.
4. The MA overpayment in *Findings of Fact* #2, above, resulted from the fact that petitioner failed to report her move to Tennessee; as a result petitioner received Wisconsin MA benefits when she should not have. Exhibits #1, #2, #3, #4 & #5.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits; or,
- C. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case petitioner failed to report that she moved to Tennessee. Petitioner does not deny this. This caused the MA overpayment listed in *Findings of Fact* #2, above. In order to be eligible for MA a person must be a resident of Wisconsin. Wis. Admin. Code § DHS 103.03(3)(b) (July 2015); *Medicaid Eligibility Handbook* ["MEH"] 6.1.1.; *BadgerCare Plus Eligibility Handbook* 3.1

At the November 5th Hearing petitioner argued that she did not "officially" move to Tennessee until November 2014. She testified that until that time she lived with her aunt in Milwaukee, Wisconsin and was ½ time in Wisconsin and ½ time in Tennessee. This is not credible. First, after June 25, 2014 all of petitioner's Food Stamp ["FS"] benefits were spent in Tennessee (not in Wisconsin). Exhibit #2. Second, at the November 5th Hearing petitioner was offered the opportunity to have the record held open so she could submit documentation supporting her claim that she lived in Wisconsin until November 2014. Petitioner declined this opportunity.

CONCLUSIONS OF LAW

For the reasons discussed above, the following Claim may be established against petitioner for an MA overpayment: Claim Number [REDACTED]; August 1, 2014 to July 31, 2015; \$2,323.99.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of November, 2015

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 20, 2015.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability